

**NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY  
PERMANENT TAKE-OUT FINANCING  
DOCUMENT CHECKLIST**

*The Agency intends to provide financing for this project through the sale of taxable, tax-exempt bonds or any other funds available to the Agency. The requirements listed in Section I of this checklist must be satisfied prior to **Declaration of Intent**. The requirements listed in Section II of this checklist must be satisfied prior to a **Mortgage Commitment**. And the requirements in Section III of this checklist must be satisfied prior to the **inclusion in a bond issue**.*

**DATE:**

**PROJECT NUMBER:**

**PROJECT NAME:**

Project Address:

Block:

Lot:

# of Units:

Type of Tax Credits:

Set Aside:

Const. Period:

**PARALEGAL:**

**Phone #:**

**DAG:**

**Phone #:**

**LOAN OFFICER:**

**Phone#:**

**SPONSORING ENTITY:**

**OWNER:**

**(Please note if same as Sponsoring Entity)**

**Address:**

**Phone #:**

**OWNER CONTACT:**

**Phone#:**

**SPONSOR'S ATTORNEY:**

**Address:**

**Phone #:**

**Code to Document Requirements:**

*A - Document Received and Approved*

*NA - Not Applicable*

*R - Document Received and either (1) Under review or (2) Requires modification or update as indicated*

*\* - An asterisk indicates that a New Jersey Housing and Mortgage Financing Agency form document must be used*

*All items are required to be submitted by the sponsoring team unless otherwise noted.*

**I. REQUIREMENTS FOR DECLARATION OF INTENT*****SPONSOR:***

- \_\_\_ Application\* (Date \_\_\_\_\_)
- \_\_\_ Project Narrative
- \_\_\_ Preliminary Proforma/Cash Flow (Agency Form 10)\*
- \_\_\_ General Site Location Map
- \_\_\_ Resume for Sponsor (For Assisted Living Projects, resumes are also required for the service provider and architect)
- \_\_\_ Evidence of Site Control
  - \_\_\_ Deed
  - \_\_\_ Option Agreement
  - \_\_\_ Contract of Sale
  - \_\_\_ Redevelopment Agreement
  - \_\_\_ Ground Lease or Option to Enter into Ground Lease (keep in mind it is not the same as the Option Agreement listed above)
  - \_\_\_ Other
- \_\_\_ Resolution of Need from Municipality\* (may be included in municipal resolution granting payments in lieu of taxes)
- \_\_\_ Preliminary Drawings
- \_\_\_ Additional Requirements for Assisted Living Projects
  - \_\_\_ Certificate of Need
  - \_\_\_ Operator's Questionnaire\*
  - \_\_\_ Preliminary Market Study
  - \_\_\_ Preliminary Marketing Plan
- \_\_\_ Additional Requirements for Home Express Loan
  - \_\_\_ Home Express Waiver Request\*

***NJHMFA (All documents in this section will be prepared by NJHMFA):***

- \_\_\_ Additional Requirements for Home Express Loan  
\_\_\_ Policy Test for Projects
- \_\_\_ Site Inspection Report
- \_\_\_ Board Resolution for Declaration of Intent (Date \_\_\_\_\_)
- \_\_\_ Declaration of Intent Letter

**II. REQUIREMENTS FOR MORTGAGE COMMITMENT**

***SPONSOR:***

- \_\_\_ Formation Certificate for Sponsor and Managing Entity  
(Advise NJHMFA prior to formation if contemplating an Urban Renewal entity  
N.J.S.A. 40A:20-1 et seq)
  - \_\_\_ Certificate of Limited Partnership
  - \_\_\_ Certificate of Formation
  - \_\_\_ Certificate of Incorporation
  - \_\_\_ Certificate of Formation for Managing Member
- \_\_\_ Corporate Certification and Questionnaire\*
  - \_\_\_ Sponsoring Entity
  - \_\_\_ General Partner (Limited Partnership)
  - \_\_\_ Managing Member
  - \_\_\_ Other entity owning 10% or greater interest in sponsoring entity
- \_\_\_ Phase I Environmental Assessment Report (pursuant to N.J.A.C. 7:26E-3.2)
- \_\_\_ Phase II Environmental Report (pursuant to N.J.A.C. 7:26E-3.3) if applicable
- \_\_\_ Resolution Granting Preliminary Site Plan Approval, MINOR Subdivision, and Any Zoning Variances from Municipality and County
- \_\_\_ Municipal Resolution Granting Payments in Lieu of Taxes\*
  - \_\_\_ Agency statute is N.J.S.A. 55:14K-37.
  - \_\_\_ The Long Term Tax Abatement falls under N.J.S.A. 48:20-1.
- \_\_\_ Agreement for Payment in Lieu of Taxes\*
- \_\_\_ Financing Commitments from Other Funding Sources

- \_\_\_ Equity Commitments
- \_\_\_ Executed Rental Assistance Agreements (if applicable)
- \_\_\_ HUD Risk Share Insurance (if applicable)
  - \_\_\_ Environmental Assessment and Compliance Findings, HUD Form 4128
  - \_\_\_ HUD Form Field Notes Checklist
  - \_\_\_ Request for Release of Funds and Certification, HUD Form 7015.15
  - \_\_\_ Application/Recipient - Disclosure, HUD Form 2880
  - \_\_\_ Previous Participation Certificate, HUD Form 2530
  - \_\_\_ Subsidy Layering Memo (non-HOPE VI projects)
- \_\_\_ Affirmative Fair Housing Marketing Plan\*
- \_\_\_ Housing Resource Center ("HRC") registration of project entity

***ARCHITECT/ENGINEER:***

- \_\_\_ Architect's Contract\* (Agency Addendum\* required)
- \_\_\_ Soils Test
- \_\_\_ Design Development Drawings and Specifications
- \_\_\_ Survey (2 Sealed Originals Certified to Sponsor, NJHMFA and Title Company)
- \_\_\_ Certified Land Description
- \_\_\_ Confirmation of Availability of Utility Services (electric, gas, water, sewer)
  - \_\_\_ Letter from Utility Companies
  - \_\_\_ Resolution from Municipal/County Authority, if applicable

***CONTRACTOR:***

- \_\_\_ Evidence of ability to obtain Performance Guarantee (**check which applicable**):
  - \_\_\_ 100% Payment & Performance Bond (With Sponsor and NJHMFA as Obligees).
  - \_\_\_ Letter of Credit equal to 10% of the construction cost
  - \_\_\_ Warranty Bond equal to 30 % of construction cost
- \_\_\_ Final Summary Trade Payment Breakdown\* or AIA Form 703 (Schedule of Values)

***NJHMFA (All documents in this section will be prepared or obtained by NJHMFA):***

- \_\_\_ Additional Requirements for Home Express Loan
  - \_\_\_ Home Express Loan Commitment Letter from DCA Commissioner

- \_\_\_ Appraisal/Market Study
- \_\_\_ HUD Risk Share Insurance (if applicable)
  - \_\_\_ Advertisement Request for Release of Funds
  - \_\_\_ HUD Firm Approval Request
  - \_\_\_ HUD Firm Approval Letter
  - \_\_\_ Subsidy Layering Memo (Non-HOPE VI Projects)
- \_\_\_ Board Resolution Authorizing Mortgage Commitment and Commitment Proforma/Cash Flow (Agency Form 10)\* (Date \_\_\_\_\_)
- \_\_\_ Commitment Letter and Indemnification Deposit (Commitment Letter to be executed by Sponsor and returned with Deposit within 10 days of mortgage commitment)\*

### **III. ADDITIONAL REQUIREMENTS FOR INCLUSION IN A BOND SALE**

#### ***SPONSOR:***

- \_\_\_ Personal Questionnaire for Directors and Officers of Sponsoring Entity, Individuals Serving as General Partner or Managing Member, and any individual owning 10% or greater interest in sponsoring entity\*
- \_\_\_ Criminal Background Check for Directors and Officers of Sponsoring Entity, Individuals Serving as General Partner or Managing Member, and any individual owning 10% or greater interest in sponsoring entity\*
- \_\_\_ Current Operations Agreement for: (Check Which Applies)
  - \_\_\_ Sponsoring Entity (By-laws: Corporation; Partnership Agreement: Limited Partnership; Operating Agreement: Limited Liability Company)
  - \_\_\_ General Partner or Managing Member of Sponsoring Entity (Must contain NJHMFA Statement)
- \_\_\_ DRAFT Operating Agreement for Sponsoring Entity as it will exist once Limited Partner investor is included.
  - \_\_\_ Also need for General Partner/Managing Member if not same as original sponsoring entity.
- \_\_\_ Certificate of Good Standing, from State of Formation, for Sponsoring Entity and All General Partner(s) or Managing Member(s) and for Limited Partner(s)
- \_\_\_ New Jersey Secretary of State Authorization to do Business in New Jersey for any Out-of-State Sponsoring Entity
- \_\_\_ TEFRA Certification (tax-exempt projects only)\*
- \_\_\_ Final Site Plan Approval

- \_\_\_ Construction Lender Commitment and Copies of Loan Documents
- \_\_\_ Title Insurance Commitment (update required for closing)
  - \_\_\_ Tax Search
  - \_\_\_ Assessment Search
  - \_\_\_ Municipal Water/Sewer Utility Search
  - \_\_\_ Judgment Search
  - \_\_\_ Corporate Status and Franchise Tax Search
  - \_\_\_ Flood Certification
  - \_\_\_ Closing Protection Letter for Title Officer Attending Closing
  - \_\_\_ Survey Endorsement
  - \_\_\_ Title Rundown Confirmation (in writing)
  - \_\_\_ Copies of All Instruments of Record
  - \_\_\_ First Lien Endorsement
  - \_\_\_ Environmental 8.1 Endorsement
- \_\_\_ Cash or Letter of Credit for Negative Arbitrage and/or Cost of Issuance
- \_\_\_ Competitive Tax Credit Application
- \_\_\_ Owner's Tax Certificate (original to go to Bond Counsel)
- \_\_\_ Attorney Opinion Letter (for bond sale; additional opinion required for permanent loan closing)

***ARCHITECT/ENGINEER:***

- \_\_\_ Architect's Errors and Omission Policy/Certificate of Insurance (naming NJHMFA as Certificate Holder)

***CONTRACTOR:***

- \_\_\_ Contractor's Liability Insurance naming Sponsor as Additional Insured and Loss Payee
- \_\_\_ Construction Contract (Agency Addendum\* required)
- \_\_\_ Building Permits

***NJHMFA (All documents in this section will be prepared by NJHMFA):***

- \_\_\_ Bond Proforma/Cash Flow (Agency Form 10)\*
- \_\_\_ TEFRA Notice\*
- \_\_\_ Agreement as to Interest Rate and Mortgage Amount\*

\_\_\_\_\_ Permanent Financing Agreement\*

**IV. CLOSING REQUIREMENTS (All items due two weeks before closing is scheduled)**

***SPONSOR:***

- \_\_\_\_\_ Certificate of Formation for LIHTC equity investor member entity
- \_\_\_\_\_ Certificate of Good Standing from state of formation for LIHTC investor member
- \_\_\_\_\_ Final Operations Agreement for Sponsoring Entity and General Partner(s) or Managing Member(s) (As Applicable)
  - \_\_\_\_\_ Partnership Agreement (LP) with HMFA Statement
  - \_\_\_\_\_ Operating Agreement (LLC) with HMFA Statement
  - \_\_\_\_\_ By Laws (Corporation) with HMFA Statement (*HMFA Statement required for sponsoring entity only*)
- \_\_\_\_\_ Flood Insurance, if applicable (naming NJHMFA as First Mortgagee, Additional Insured and Loss Payee)
- \_\_\_\_\_ Insurance Policy (naming NJHMFA as First Mortgagee, Loss Payee and Additional Insured) – original policy with paid receipt evidencing payment of all premiums for first year in advance
- \_\_\_\_\_ 100% Payment and Performance Bond (Sponsor may provide 10% Letter of Credit or 30% Warranty Bond in lieu of Payment and Performance Bond)
- \_\_\_\_\_ Development Cost or Tax Credit Audit
- \_\_\_\_\_ Filed Notice of Settlement (copy of filed Notice; Notice valid for 45 days)
- \_\_\_\_\_ Deed Evidencing Title in Sponsor's name (if applicable)
- \_\_\_\_\_ Seller's Affidavit of Title and Corporate Resolution to sign Loan Documents (if applicable)
- \_\_\_\_\_ Mortgagor's Affidavit of Title\*
- \_\_\_\_\_ Resolution to Borrow\*
- \_\_\_\_\_ Counsel Opinion from Sponsor's Attorney\*
- \_\_\_\_\_ Payoff Letter for any Mortgages or other liens to be discharged along with wiring instructions for payoff
- \_\_\_\_\_ Closing Bills: invoices for payment; paid invoices and cancelled checks for reimbursement

- \_\_\_ Merrill Lynch Escrow Account forms\* [*for Borrower*]  
Escrow Indemnification Letter \*  
Working Capital Management Account Agreement \*  
Agreement for Multiple WCMA Accounts \*  
Escrow Letter \*
- \_\_\_ Agency Board and Other Sponsor Requirements
- \_\_\_ Housing Resource Center (“HRC”) registration of project

***ARCHITECT/ENGINEER:***

- \_\_\_ Final Contract Drawings and Specifications including As-Built Drawings
- \_\_\_ Architect’s Certificate of Substantial Completion with punchlist
- \_\_\_ Architect’s Letter certifying all warranties and maintenance manuals were delivered to Project Sponsor
- \_\_\_ Street Vacation Ordinances (Resolution with Proof of Publication), if applicable
- \_\_\_ Evidence of completion of Environmental Remediation Plans (if applicable)
- \_\_\_ Final Survey (2 sealed originals, certified to Sponsor, NJHMFA and Title Company) showing As-Built condition of property

***CONTRACTOR:***

- \_\_\_ Termite Certification (for rehab) or Certification from Contractor that Treated Lumber will be Used (for New Construction)
- \_\_\_ Releases\* from General Contractor and all Subcontractors
- \_\_\_ Contractor’s Affidavit\*
- \_\_\_ Certificate of Occupancy covering all units

***MANAGING AGENT:***

- \_\_\_ Management Agreement Package\* (as applicable) in triplicate
  - \_\_\_ Self-Managed (NJHMFA form MD 103.2)
  - \_\_\_ Broker Managed (NJHMFA form MD 103.1)

***NJHMFA:***

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- \_\_\_ Closing Proforma (Agency Form 10)\*
- \_\_\_ Closing Statement and Check Register
- \_\_\_ NJHMFA Determination as to Project Cost and Completion\*
- \_\_\_ Loan Documents\*
  - \_\_\_ Financing, Deed Restriction and Regulatory Agreement
  - \_\_\_ Mortgage Note
  - \_\_\_ Mortgage & Security Agreement
  - \_\_\_ Assignment of Leases
  - \_\_\_ UCC-1 Financing Statement
  - \_\_\_ Assignment of Syndication Proceeds Signed by Investor and Sponsor
  - \_\_\_ Escrow Closing Agreement, if applicable
- \_\_\_ Tax Credit Documents\* (Check Which Applies)
  - \_\_\_ 42M Letter (for projects using tax-exempt financing) OR
  - \_\_\_ Reservation Letter (for projects awarded competitive tax credits)
  - \_\_\_ Carryover Allocation or Binding Forward Commitment or 8609
  - \_\_\_ Tax Credit Deed Restriction
  - \_\_\_ Tax Credit Reservation Fee

## **V. POST CLOSING**

- \_\_\_\_\_ Title Policy
- \_\_\_\_\_ Recorded Documents
- \_\_\_\_\_ Development Cost Audit
- \_\_\_\_\_ Sponsor and NJHMFA Agreement as to Equity Base

**NJHMFA Provisions to By-Laws of Corporation:**

The Corporation acknowledges that any review of the provisions of these By-Laws by the New Jersey Housing and Mortgage Finance Agency ("NJHMFA") is performed in accordance with its responsibility as Lender and is intended only to assure that the Corporation is validly formed according to law, with the legal authority to borrow the funds which will constitute the NJHMFA Mortgage Loan and to operate the Property securing the NJHMFA Mortgage Loan. Notwithstanding any other provisions herein, the Corporation acknowledges and agrees that as a condition of obtaining the NJHMFA Mortgage Loan, that the NJHMFA statutes, rules and regulations and all the financing documents in connection with the NJHMFA Mortgage Loan, are applicable to the Corporation and the Property securing the NJHMFA Mortgage Loan. The Corporation further acknowledges that, except as contained in this Section, the NJHMFA makes no representations express or implied, as to these By-Laws; and the Corporation and the Shareholders shall not rely upon the NJHMFA review of these By-Laws.

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**HMFA Provisions to Partnership Agreements:**

The Partnership acknowledges that any review of the provisions of this Agreement by the New Jersey Housing and Mortgage Finance Agency ("NJHMFA") is performed in accordance with its responsibility as Lender and is intended only to assure that the Partnership is validly formed according to law, with the legal authority to borrow the funds which will constitute the NJHMFA Mortgage Loan and operate the Property securing the NJHMFA Mortgage Loan. Notwithstanding any other provisions herein, the Partnership acknowledges and agrees that as a condition of obtaining the NJHMFA Mortgage Loan, that the NJHMFA statutes, rules and regulations and all the financing documents in connection with the NJHMFA Mortgage Loan, are applicable to the Partnership and the Property securing the NJHMFA Mortgage Loan. The Partnership further acknowledges that, except as contained in this Section, the NJHMFA makes no representations express or implied, as to this Agreement; and the Partnership and the Partners shall not rely upon the NJHMFA review of this Agreement.

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**NJHMFA Provisions to Operating Agreement of Limited Liability Company (L.L.C.):**

The Company acknowledges that any review of the provisions of this Operating Agreement by the New Jersey Housing and Mortgage Finance Agency ("NJHMFA") is performed in accordance with its responsibility as Lender and is intended only to assure that the Company is validly formed according to law, with the legal authority to borrow the funds which will constitute the NJHMFA Mortgage Loan and to operate the Property securing the NJHMFA Mortgage Loan. Notwithstanding any other provisions herein, the Company acknowledges and agrees that as a condition of obtaining the NJHMFA Mortgage Loan, that the NJHMFA statutes, rules and regulations and all the financing documents in connection with the NJHMFA Mortgage Loan, are applicable to the Company and the Property securing the NJHMFA Mortgage Loan. The Company further acknowledges that, except as contained in this Section, the NJHMFA makes no representations express or implied, as to this Operating Agreement; and the Company and the Members shall not rely upon the NJHMFA review of this Operating Agreement.

## **Technical Services Requirements for Monitoring Project Construction**

*Whether the HMFA is making a permanent take-out loan or a construction and permanent loan, it requires that its Technical Services Division monitor the construction of the project. Listed below are the HMFA requirements please read carefully and be prepared to provide the necessary documentation and co-operation.*

### ***Contract Documents***

***Those documents that comprise a construction contract, the owner/developer-contractor agreement, conditions of the contract {general, supplementary, and other conditions}, plans and specifications, all addenda, modifications, and changes thereto, together with any other items stipulated as being specifically included.***

### ***Architects Contract***

That document that outlines the performance of architectural services, including analysis of project requirements, creation and development of the project design, preparation of drawings, specifications, and bidding requirements and the general administration of the construction contract. As the owner/developer's representative, the design professional should participate in the process by observing and administering the contract for construction including job site inspection, attendance at job site meetings, the creation of meeting minutes, shop drawing review, change order review, punch list inspections and so on.

### **Summary Trade Payment Breakdown**

This document divides the total cost of construction, as established by the construction contract, into various segments related to a specific trade. This "breaking down" of the total cost of construction is reflected on the application for payment and simplifies the determination of a percentage of work complete for the purpose of making payments to the contractor.

### **Detailed Trade Payment Breakdown**

This document further divides and refines the Summary Breakdown above into its constituent parts. For example, the plumbing line on the summary breakdown would be further developed to show its component parts including potable and non-potable water piping, sanitary piping, gas piping, toilet and bath fixtures, kitchen fixtures, and so on. This detailed information further enhances our ability to review project costs as well as to determine a percentage of work complete for the purpose of making payments to the contractor.

### **Shop Drawings**

These documents can be drawings, diagrams, illustrations, schedules, performance charts, brochures, and other data prepared by the contractor or any subcontractor, manufacturer, supplier, or distributor, which illustrate specific portions of the work and how they will be fabricated and installed. The contract documents usually allow for a number of choices in many portions of the work. The shop drawings are the approved choice of the owner/developer and their professional and consultants and I " become reference for Agency inspections during construction.

### ***Payment Requisitions***

The contractor prepares the application according to the approved Summary Trade Payment Breakdown or Schedule of Values. The contractor submits it to the design professional for approval. The design professional reviews the application in light of his/hers own observations and records and certifies an amount that he/she feels is appropriate. If the HMFA is providing construction financing, then the

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application for payment is reviewed and approved by a Field Representative and the Director of Technical Services. Otherwise, the requisition is provided for information purposes only.

### **Change Orders**

*A written order to the contractor signed by the owner and the architect, issued after the execution of the contract, authorizing a change in the work and/or an adjustment in the contract sum. These changes may add to, subtract from, or vary the scope of the work. Change orders may also be used to adjust the contract time as originally defined by the contract documents. If the Agency is providing construction financing, then change orders are approved by a Field Representative and the Director of Technical Services. Otherwise, any change orders are provided for informational purposes only.*

### **Drawing Revisions and/or Clarification Sketches**

*The design professional as the author of documentation that delineates the final design of the project is the appropriate administrator of decisions regarding their interpretation. Often, this interpretation and clarification is provided to the contractor in the form of revised drawings with II clouded II areas or by providing smaller sketches which clarify missing or confusing details. These documents enhance or build upon the contract documents and should be provided to the Agency for informational purposes and for use by field staff during project inspection.*

### **Prevailing Wage Reports**

*If the HMFA is providing construction financing the contractor and its subcontractors are required to submit certified payroll reports to the Director of Technical Services. These reports will be compared to the prevailing wage with the contract documents. Otherwise, these documents are not required.*

### **Administrative Questionnaires**

*If the HMFA is providing construction financing, the contractor and its subcontractors are required to complete and submit personal and corporate questionnaires. Otherwise, these documents are not required.*

### **Subcontracts over \$25,000.**

*If the HMFA is providing construction financing, the contractor is required to submit fully executed subcontracts in excess of \$25,000. Those documents will be reviewed by the Director of Technical Services for compliance with the contract documents. Otherwise, these documents are not required.*

### **Pre-Construction Meeting**

*A meeting should be held prior to the notice to proceed being issued. These meetings provide an opportunity to clear up any unfulfilled requirements, define the role of the various members of the construction team, as well as simply providing everyone a chance to get acquainted. **Many loose ends can be tied up in a timely manner at these meetings and they are highly recommended.***

### **Notice to Proceed**

*This document is a written communication issued by the owner to the contractor authorizing him/her to proceed with the work. This notice establishes the date of commencement of the work and is directly related to the contractor's time of performance and the assessment of damages for/or delay claims, if applicable. The start date is necessary to create a production schedule and to monitor the contractor's performance and its compliance with the contract documents.*

### **Construction Schedule**

*The construction schedule sets forth the contractor's estimate of the completion of the project. One of the functions of this document should be to indicate the approximate degree of completion that the owner*

and lender can expect at each application for payment. In those instances when the Agency is providing permanent financing, the schedule provides insight regarding date of closing, the need to recommit, or the date of occupancy.

**Minutes of Meetings**

A record of meetings between the parties to the contract is a very important resource. During job meetings discussions could cover a wide range of topics including quality and quantity of work performed to date, change orders, requests for clarification by the contractor to the professional or owner, delays, payments, and so on. Technical Services routinely receives them for construction financed projects and should receive them on all of our permanent financed deals as well.

**Architect's Field Report**

A/A Document G71 I is designed to document the design professional's compliance with the duty of periodic job site inspections. [The Professional may choose to use his/her own form.] These inspections may identify problems with the work and certain corrective action to be taken ultimately leading to the issuance of Supplemental Instructions.

**Bank Inspector's Report**

*If a lender other than the Agency makes construction inspections, Technical Services would like to be provided copies of these reports for our review and possible comment.*